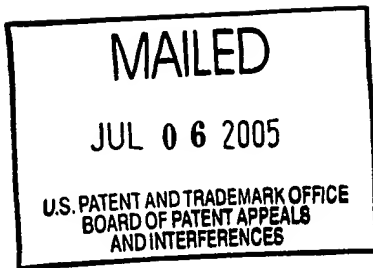


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID G. BIRD

Application 08/862,039

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 17, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

On January 24, 2001, appellant submitted an Appeal Brief. The page entitled (9) Appendix to Brief on Appeal, which immediately followed page 12 of the Appeal Brief, states:

This appendix sets out a copy of the claims involved in the appeal as Exhibit A, including claims 1-27 identical to the claims in original '537 patent and claims 28-59 added in this reissue application. Also

Application 08/862,039

included in the Appendix as Exhibit B is a copy of the '537 patent. Exhibit C is a copy of the Court of Claims decision in B.E. Meyers & Co. V. United States, 56 USPQ2d 1110 (Ct. Cl. 2000).

It should be noted that we were unable to locate a copy of the above-mentioned Exhibits A, B and C.

Accordingly, it is

ORDERED that the application is returned to the

Examiner:

1. to locate a copy of Exhibits A, B and C which were appended to the Appeal Brief filed January 24, 2001;
2. to have a complete copy of Exhibits A, B and C scanned into the Image File Wrapper (IFW); and
3. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW
Program and Resource Administrator
(571) 272-9797

DMS:psb

Donald S. Dowden
Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036